



United States  
Department of  
Agriculture

Food and  
Consumer  
Service

Mountain  
Plains  
Region

1244 Speer Boulevard  
Denver, CO  
80204-2581

Reply to  
Attn of:

SP-02-04

OCT 18 2001

Subject:

School Programs Policy Guidance - Questions and Answers

To:

STATE AGENCY DIRECTORS -  
(Child Nutrition Programs)

Colorado ED, Iowa, Kansas,  
Missouri ED, Montana OPI,  
Nebraska, North Dakota,  
South Dakota, Utah and Wyoming

This memorandum has, as an attachment, policy guidance on a number of issues that have arisen recently through questions posed to us by State agencies in the Region. Our last such memorandum was issued as SP 94-69 on May 12, 1994.

Please call our office if you have any questions.

BRIAN ALLISON  
Acting Director  
Child Nutrition Programs

Attachment

NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM  
AND SPECIAL MILK PROGRAM  
QUESTIONS AND ANSWERS  
October 2001

Free and Reduced Price Eligibility

1. Q. A household claims that a "foster child" is the legal responsibility of a court or social service agency in another State. Are there such arrangements that are genuine?  
  
A. There can be foster child situations that cross State lines. The specific instances when we have noted this have been situations where the child has special needs, and the person caring for the child is a relative.
2. Q. An adult is a legal guardian for a child. Guardians have legal custody of a child, but they must also report to the court regularly, and are subject to oversight by the court. Shouldn't a child who has a guardian be considered a foster child?  
  
A. Legal custody/responsibility is the criterion on which our definition of "foster child" rests. Even though a guardian is somewhat like a foster parent, if the guardian has legal responsibility for the child, the child is not a foster child.
3. Q. Members of a household become temporarily separated when the father moves to another town to take a temporary job. He intends to rejoin the rest of the household when the job ends in a few months. During his temporary absence he has also taken one of the children, who is enrolled in the school in the new town. How should the application for the child who has accompanied the father be completed with respect to household composition and income?  
  
A. As family members are living apart temporarily, the application for each part of the household--the part that stayed, and the part that is temporarily living apart--should be completed the same way (unless some of the children are on Food Stamps or TANF). Each application should show all household members for the full household, and income from all sources.

4. Q. A student who is 18 years old, disabled and a recipient of Supplemental Security Income (SSI) lives with her parents. She submits a free and reduced price application for herself alone, based on her being a separate economic unit from her parents. Can a child who lives with her parents claim status as being a separate economic unit?
- A. Yes. However, inasmuch as the Program notes that individuals living under the same roof usually constitute a single economic unit, the burden of proof is on the person or persons claiming separate economic unit status. Separate economic units are characterized by the prorating of household expenses and economic independence. While, according to our understanding, SSI applicants must meet rigorous standards to satisfy that program's criteria for being a separate economic unit, the determining official for free and reduced price eligibility must examine the evidence the applicant provides and make his or her own determination that the circumstances meet our criteria for being a separate economic unit for our Program.

#### Eligibility of Schools for Program

5. Q. A private school has grades kindergarten through 12. The State Department of Education says that only grades K through 8 in this school are accredited and that in order for a school to be "recognized as part of the educational system in the State" (see 7 CFR 210.2 "School") it must be accredited. Since grades K through 8 are accredited and can operate the NSLP, can grades 9 through 12 also participate because they are in an accredited school?
- A. No, grades 9 through 12 may not participate, because they don't meet the definition for "school" under the NSLP.
6. Q. Several public school districts have a contract with a private for-profit school, where the districts send children with special needs for their education each school day. The school districts would like the children to have NSLP lunches. May they operate the NSLP in the private for-profit school as a satellite of their own NSLP

operations?

- A. No. The NSLP cannot be operated in a private, for-profit school, even if the meals are brought in by public schools.

#### Afterschool Care Snack Program

7. Q. A residential child care institution (RCCI) has children who go out to school. After school they return and take part in group therapy sessions that are part of the RCCI's treatment program. May the therapy sessions count as afterschool care activities?

- A. Yes, if they are organized, supervised, and regularly scheduled.

#### Lunch Service with Adults

8. Q. A school has a parent who comes to school to eat breakfast and lunch with her child. When the parent eats breakfast with the child the parent takes part of the food served to the child, and, at lunch, the child brings a sack lunch, gets a free NSLP lunch, and gives the hot lunch to the parent to eat. Is this OK, or why not?

- A. As with other situations that sometimes arise in the cafeteria after a child has been served a Program meal there is not specific regulatory language that prohibits the practice described. However, the activities of the parent clearly counter the aims of the Program, as expressed in 210.1, the Richard B. Russell National School Lunch Act, etc. The child should be given every opportunity to eat as much of any Program meal served to him or her, without someone, including a parent, interfering with his or her choice to do so.